

Notarization System in Korea





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I Overview of Notarization System in Korea

1. Meaning

- Notarization is the system to officially prove existence of specific documents facts or legal relationships as part of preventive function of private law for the purpose of preserving evidences and facilitating enforcement of rights of the right-holders arising from to the transactions entered into by citizens in daily lives.

2. Historical Profile

● Origin(起源)

- Originating from Yijeon(Administrative law in contemporary similar term)(吏典, A.D. 1466) Maemaehanjo-yiban(賣買限條 立案)(Sales law in contemporary similar term) of the Code of law of Chosun Dynasty(A.D. 1392~1910)

● Introduction of the modern system

- 1912. 3. 18. Enactment of Chosun Minsaryung(Chosun Civil Affairs Decree in contemporary similar term) (Imperial Decree No.7)

※ The provision was introduced that a court clerk shall perform notary functions.

- 1913. 3. 17. Enactment of Chosun Gongjeungryung(Chosun Decree on Notarization in contemporary similar term) (Imperial Decree No.13)

※ As of May 1 of the same year, it was promulgated · enforced, and thus, the professional notary system began.

● Enactment of the Notary Act

- 1961. 9. 23. Enactment · promulgation of the Notary Act(Act No.723)

● Introduction of the notarization system with lawyer notaries - newly establishing the system of “joint law office” with a notarization permit

- 1970. 12. 31. Enactment · promulgation of the Specific Act on Civil Dispute Case Resolution by Summary Procedure

※ Period of drastic revolution in the notarization system of our country
 ※ Establishing the system of “a joint law office with a notarization permit” which was the association of lawyers
 ※ Performing notarial acts with the approval of the Minister of Justice
 ※ In addition to the pre-existing exclusive notary system, a joint law office with a notarization permit was newly established, which was a kind of new notarization system with lawyer notaries(the dual system)
 ※ Newly establishing the notarization system pertaining to a promissory note → enforcement without court judgement
 ※ Newly establishing the notarization system as to the resolution of the board of directors of corporation, etc.



● Expansion of the notarization system with lawyer notaries - newly establishing the system of “law firm” with a notarization permit

- 1982. 12. 31. Revision of the Attorney-at-law Act(Act No.3594)

- ※ Enabling lawyers to establish a law firm(Article 30)
- ※ Enabling a law firm to perform notarial acts(Article 39 Parag.1)
- ※ A member lawyer performs notarial acts as representing of the law firm.

● Abolishment of the system of joint law office with a notarization permit and improvement of notarial acts

- 2005. 1. 27. Revision of the Attorney-at-law Act(Act No.7357)

- ※ A qualification requirement is imposed that only the member lawyer with legal career of more than 5 years can perform notarial acts.
- ※ The system of joint law office with a notarization permit was abolished(preexisting joint law offices with a notarization permit may continue to carry out notarial acts until dissolution; sunset provision)

● Strict requirement as to notary qualification, and requirement of mandatory membership of notary to the notaries association

- 2009. 2. 6. Revision of the Notary Act(Act No.9416)
- Enforcement date Feb. 7, 2010.

- ※ Incorporating notarization rules pertaining to law firm under the Attorney-at-law Act into the Notary Act
- ※ Providing requirement of mandatory membership of notary to the notaries association
- ※ Delegating training education of notaries and part of supervisory right over notaries to the Korean Notaries Association
- ※ Demanding more than “10 years of legal career” to appointed notaries or lawyers of law firm in charge of notarization to ensure that persons with sufficient legal career perform notarial acts
- ※ A retirement age of notary is stipulated as 75.
- ※ The systems of electronic notarization(e-Notarization) and certification of documents with oath administered by notary are newly established.

3 Relevant Laws

● Framework laws related to notarization

- The Notary Act, the Enforcement Decree of the Notary Act
- Rules for the use of notarization forms, etc.
- Rules for the capped number on total notaries.
- Rules for notary fees
- Rules for keeping of notary's documents
- Rules for the discipline committee



II Entities for Notarization



1. Appointed Notary



○● Meaning

- Entity in charge of performing notarial acts upon appointment by the Minister of Justice

○● Notary requirements

- Must be a citizen of the Republic of Korea and judge · prosecutor · lawyer with legal career of more than 10 years

○● Notary's term of office

- 5 years at the first appointment, and renewal upon expiration of the term for another 5 years and so on, unless any other grounds for disqualification grounds such as ill health arise
- A retirement age is 75.

○● Granting of the status of public officer to notary

- Granted with status of public officer within the scope of carrying out notarial acts; however, no salaries or wages are paid by the government, and office maintenance expenses, solely depend on revenue of notarization fees.

○● Establishment of joint office of notaries

- It is possible for more than two notaries to establish a joint office.

○● Affiliation of notaries and the capped number

- Notaries belong to the district prosecutor's office, and the total number is regulated by "the rules of capped number of notaries and notary surety bonds" of the jurisdiction.

2. Commissioned Notary : law firm with a notarization permit

○● Meaning

- Once lawyers establishes a law firm in accordance with the Attorney-at-law Act, and thereafter, secures a permission to perform notarial acts from the Minister of Justice, they can perform notarial acts in the name of law firm.

※ The commission of notary office remains valid for 5 years.

○● Requirements for lawyers in charge of notarial acts

- Lawyers with legal career of more than 10 years among members of law firm

※ A retirement age of lawyer in charge of notarization is also stipulated as 75.



III

Functions of Notarization

1. Dispute preventing function

- The notarized documents are acknowledged as having strong probative values in the trial process.
- If the agreement between contract parties is notarized, the allegation to the contrary is practically banned, which is favorable to the aggrieved party when disputes arise later.

2. Expedited relief

- If a debtor approves in advance a compulsory execution of the claim to monetary payment by means of an official notarized certificate, a compulsory execution can be enforced with the same effect as the court's final judgment.

3. Keeping of documents

- Notarization offices have custody of notarized documents separately (Notary journals 25 years, Original duplicate of official certificates 10 years, Copy of certified private documents 3 years).

IV

Main Contents of Notarial Acts



1. Official certificates

○● Meaning

- Certificates prepared by a notary pertaining to legal acts or other private rights in accordance with the Notary Act by commission of a client

○● Official certificates pertaining to legal acts

- Prepared pertaining to loan, lease agreement, assignment of claims, sales, gift contract, etc.

○● Official certificates with regards to a promissory note

- Official certificates containing a statement of an intent to approve a compulsory execution as attached to a promissory note
- An immediate execution can be carried out without the court's judgment, if defaulted.

○● Official certificates of will

- A notary prepares an official certificate of will with participation of two witnesses appearing before a notary.

2. Certification

○○ Meaning

- Confirmation by a notary that a document composed by a person has been indeed prepared by himself/herself in accordance with the person's intent; the contents of the document do not violate the law; and a certain act complies with a legitimate procedure requirement

○○ Types

- (1) Certification of private documents : various kinds of contracts, power of attorney, warranty, invitation, etc. which are composed by a person
- (2) Certification of the articles of incorporation : confirming the articles of incorporation for the registration of a corporation
- (3) Certification of the minutes : confirming the minutes of the general meeting or the meeting of the board of directors

3. Electronic Notarization(for "e-Notarization") System

- (1) A notary equipped with a certain facilities is designated as the designated notary.
- (2) A person seeking to have an electronic document notarized could type a digital signature at the text or verify the authentic establishment of a digital signature.
- (3) A notary attests to it.
- (4) The information stating the foregoing fact is attached to an electronic document in the electronic method.
- (5) A notary may certify the electronified document if the electronified document is consistent with the document to be electronified after a comparison is made between the above two documents.

○○ Amendment of the Notary Act: Enforcement Date Aug. 7, 2010

- ※ Implementation period of the demonstration project: May 3, 2010~June 30, 2010
 1st stage: Internal tests by notaries for the demonstration project(May 3, 2010~May 31, 2010)
 2nd stage: Tests by the general public(June 1, 2010~June 30, 2010)
- ※ Institutions for the demonstration project: 4 places

V

Period of Time for Keeping Notarized documents

○○ Rules for the period of time for preservation of notarized documents

1. Notary journals	25 years
2. Original duplicate of official certificates	10 years
3. Copy of certified private documents	3 years

- Notarized documents shall be kept in the firewall warehouse belonging to a notary office.



VI Current Number of Notaries and Concluded Notarial Acts within the Last 10 years

1. Current number of notaries

※ As of Dec. 31 of each year

Type \ Year	2001	2002	2003	2004	2005	2006	2007	2008	2009
Appointed Notaries	16	15	21	24	29	30	30	33	33
Commissioned Notaries (law firm, etc.)	Office	262	283	296	299	326	338	362	375
	Member	1,329	1,427	1,572	1,686	1,858	2,020	2,205	2,352

● As of Jul. 10, 2010

- Appointed notaries 35 persons, 8.77%
- Commissioned notaries(law firm, etc.) 364 offices, 91.23%
- lawyers in charge of notarial acts 2,312 persons

● Reference: Current number of practicing lawyers

※ As of Dec. 31 of each year / unit : person

Year	2001	2002	2003	2004	2005	2006	2007	2008	2009
Member	4,618	5,073	5,586	6,300	6,997	7,603	8,143	8,895	9,630

2. Nationwide number of notary offices as of Jul. 10, 2010

Type \ District	Appointed notary	Commissioned notaries(law firm, etc.)		Total
		Office	lawyers in charge	
Total	35	364	2,312	399
Seoul	10	192	1,484	202
Euijeongbu	1	14	70	15
Incheon	0	24	123	24
Suwon	6	37	208	43
Kangwon	1	3	9	4
Chungbuk	2	8	39	10
Daejeon	2	9	34	11
Daegu	3	19	73	22
Busan	2	19	101	21
Ulsan	2	7	39	9
Kyungnam	3	8	30	11
Kwangju	2	16	78	18
Jeonbuk	0	6	21	6
Jeju	1	2	3	3

3. Current number of concluded notarial acts

※ As of Dec. 31 of each year/ unit : case, person

Type Year	official certificates preparation	Articles of Incorporation certification	Minutes of Corporation certification	Private Documents certification	Others	Total
2001	1,165,762	61,864	764,399	1,090,148	1,659,637	4,741,810
2002	1,209,329	60,782	495,616	804,186	1,418,321	3,988,234
2003	2,095,568	57,780	567,896	855,869	3,620,984	7,198,097
2004	1,022,003	47,721	492,795	911,697	1,162,835	3,637,051
2005	690,330	54,004	505,817	1,087,973	1,315,934	3,654,058
2006	691,710	52,186	533,277	1,018,542	1,324,916	3,620,631
2007	799,089	55,156	553,276	1,084,259	1,555,036	4,046,816
2008	779,806	51,851	543,118	909,435	1,973,880	4,258,090

VII Notarization Fees

●● Rules for notary fees

① Notary fee schedule for preparing official certificates

Face amount of an object of a legal act, a note or a check	Fee
up to 2 million won	11,000 won (about 9.51USD, 6.36EUR)
up to 5 million won	22,000 won (about 19.03USD, 12.73EUR)
up to 10 million won	33,000 won (about 28.54USD, 19.09EUR)
up to 15 million won	44,000 won (about 38.06USD, 25.46EUR)
in excess of 15 million won	addition of 3/2000 of the excess amount up to the maximum of 3 million won (about 2,595.15USD, 1,736.11EUR)

② Certification fee

- (1) Fees for certification of private documents 5/10 of the fee for preparing certificates
- (2) Fees for certification of the articles of incorporation
 Up to 50 million won of the total face amount of issued stocks 80,000won
 (about 69.20USD, 46.29EUR)
 In excess of 50 million won 1/2000 of the excess is added up
 to the maximum of 1 million won (about 865.05USD, 578.70EUR).
- (3) Fees for certification of the minutes(per case) 30,000won
 (about 25.95USD, 17.36EUR)



Overview of the Korean Notaries Association



1. Overview of the Association

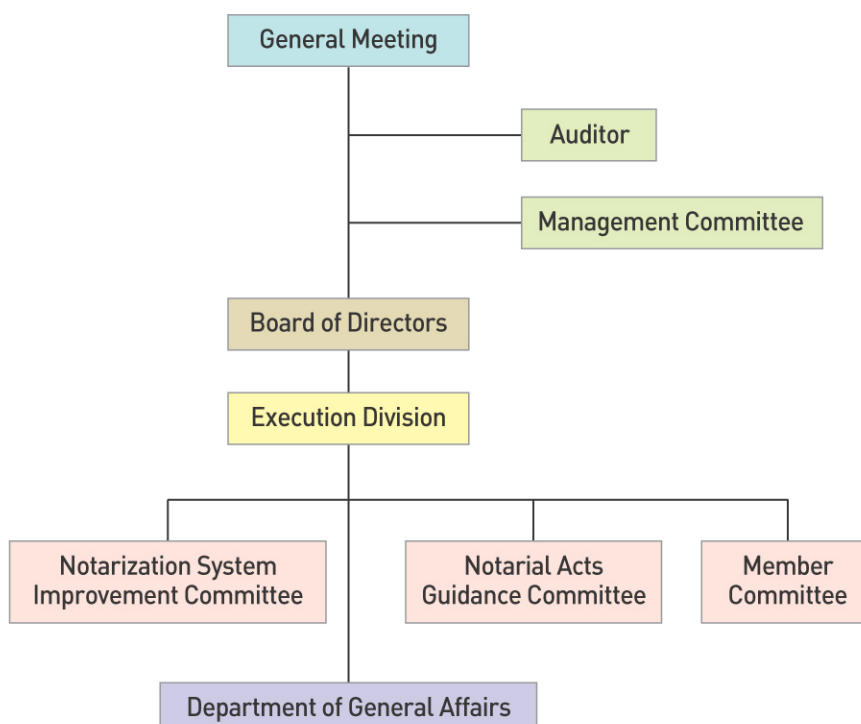
● Purpose of establishment

- The Korean Notaries Association was established in accordance with Article 77-2 of the Notary Act for the following purposes: △ rationalization of management and unification/improvement of notarial acts △ guidance and communication with notaries and its assistants △ expansion of the work scope covered by notarial acts △ improvement of the status of notaries △ production and distribution of notarization journals △ networking among notaries and △ performance of duties pertaining to notarial acts.

● Historial profile

- 1971. 1. 6. the Notarial Acts Guidance Committee under the Korean Bar Association
- 1973. 10. 29. establishing Seoul Notarization Council
- 1976. 7. 12. The Inaugural general meeting of Seoul Notarization Association
- 1979. 12. 15. the Korean Notarization Association
(expanded as the nationwide membership organization)
- 2010. 2. 7. renamed as the Korean Notaries Association as the revised Notaries Act;
restart as a mandatory membership organization consisting of entire appointed notaries
and commissioned notaries

2. Organization table(currently)



○● General Meeting

- A regular meeting is held in March of each year.
- Main items on agenda
 - ① revision of the articles of incorporation, enactment and revision of rules
 - ② selection and dismissal of executives and managing committee members
 - ③ budgeting and the settlement of accounts
 - ④ other items necessary for accomplishing the purpose of the above meeting

○● Management Committee

- Major decision-making body
- Composed of managing committee members selected in the general meeting
- Duties
 - ① review · resolution of items related to management of the association
 - ② review · resolution of items related to selection of directors in case of vacancies
 - ③ review · resolution of items entrusted by the general meeting

○● Board of Directors

- Decision-making body
- Composed of Execution committee members and directors selected in the general meeting

○● Execution Division

- Executives : President of the Association, 4 Vice-president, 5 Executive Director(General affairs, Financial affairs, Legislation, International relations, Membership)

○● Auditor

- 2 Auditors

○● Research bodies

- Notarization system improvement committee
- Notarial acts guidance committee
- Member committee



3. Main activities

- Notarization week event(every autumn, one week-long promotion)
- Publication of notarization practice manual
- Training education of notaries and notarization assistants
- Publication of the periodical of the Korean Notaries Association





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대한공증인협회

KOREAN NOTARIES ASSOCIATION